UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DEBBY YEGER,

Plaintiff,

-against-

THE INSTITUTE OF CULINARY EDUCATION, INC.,

Defendant.

1:14-CV-8202 (LTS)

AFFIDAVIT OF MATTHEW PETERSEN IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Matthew Petersen, being duly sworn, deposes and says:

1. I hold the positions of Chief Operating Officer and Chief Financial Officer for The Institute of Culinary Education ("ICE" of "Defendant").

2. ICE is New York City's largest and most active center for culinary education.

3. ICE offers highly regarded seven-month to eleven-month career training programs in culinary arts, baking, and culinary management.

4. I was Plaintiff Debby Yeger's direct supervisor from in or around September 2012 to on or about June 10, 2013.

5. In or about October 2012, I met with Plaintiff to discuss her request for a salary increase.

6. During my initial meeting with Plaintiff in October 2012 to discuss her request for a salary increase, Plaintiff presented me with on line research which she claimed contained information regarding salaries that were being offered for positions comparable to the position she held as Defendant's Director of Compliance & Reporting.

7. However, the information Plaintiff provided me related to salaries being offered for corporate compliance positions in entities that were not connected with schools.

8. After receiving Plaintiff's information, I agreed to perform my own research and to meet with Plaintiff again to discuss the matter further.

9. After I gathered information on salaries for positions in proprietary schools which I believed were more comparable to the position Plaintiff held with ICE than the positions referenced in Plaintiff's research, I participated in a second meeting with Plaintiff to review my research.

10. A true and correct copy of the salary information I reviewed with Plaintiff during our second meeting in October 2012 on the topic of salary is attached hereto as Exhibit "A."

11. At the conclusion of my second meeting with Plaintiff in October 2012 on the topic of salary, I offered to meet with her for a third time to continue our discussion regarding her request for a salary increase.

12. However, Plaintiff never took me up on my offer to meet with her for a third time to discuss her request for a salary increase.

13. During my two meetings with Plaintiff in October 2012 on the topic of salary, Plaintiff never complained that she believed she was being discriminated against because of her age, gender, religion or medical condition based on the salary she was receiving at the time the meetings occurred.

14. On or about January 8, 2013, I issued a performance improvement plan ("PIP") to Plaintiff in an effort to clearly explain my expectations of her and to afford her an opportunity to improve on the significant performance deficiencies I had observed after I became her supervisor in or about September 2012.

15. Due to Defendant's financial condition, neither Plaintiff nor any of the other employees in Defendant's Office of Financial Aid received a salary increase in 2013.

16. Despite the expectations I specified for Plaintiff in her PIP, in or about February 2013 I became aware of additional incidents in which Plaintiff avoided meeting with students and changed her work schedule without notifying me.

17. On or about February 25, 2013, I met with Plaintiff to discuss the information I had received regarding her post-PIP performance issues.

18. During my February 25, 2013 meeting with Plaintiff, I told her I was giving her a final warning and admonished her that if she continued to refuse to meet with students her employment would be terminated.

19. In or about June 2013 I terminated Vincent Tunstall's employment with Defendant and hired Martha Padilla Mercedes to replace Mr. Tunstall as Defendant's Director of Financial Aid.

20. Following her hire, Ms. Padilla Mercedes became Plaintiff's direct supervisor.

21. This shift in reporting structure was instituted because I was promoted to the position of Chief Operating Officer and had to limit the number of employees who reported to me directly.

22. In addition, I believed it was practical to have ICE's new Director of Financial Aid supervise Plaintiff because all of Plaintiff's job duties fell under the financial aid umbrella.

23. Plaintiff's job duties were not changed and her annual salary was not changed when Ms. Padilla Mercedes became her supervisor in June 2013

24. On or about July 23, 2013, I decided to place Plaintiff on paid administrative leave in part to allow Director of Human Resources Mary Anne Kennedy time to complete her investigation of complaints she had received from co-workers of Plaintiff who claimed Plaintiff had avoided her responsibility to meet with students on or about June 28, 2013, July 15, 2013 and July 18, 2013.

25. I also decided to place Plaintiff on a paid administrative leave on or about July 23, 2013 because Plaintiff refused to acknowledge Ms. Padilla Mercedes as her supervisor.

26. While Plaintiff was on paid administrative leave, Ms. Padilla Mercedes informed me that she could perform or oversee all of Defendant's compliance needs more efficiently than Plaintiff.

27. After investigating the complaints Defendant received from Plaintiff's co-workers in or about July 2013, Ms. Kennedy concluded that Plaintiff had failed to meet with three students without any valid excuse in violation of her PIP and recommended that I terminate Plaintiff's employment.

28. I declined Ms. Kennedy's recommendation to terminate Plaintiff's employment and attempted to preserve Plaintiff's employment with Defendant by allowing her to return to work on or about August 13, 2013.

29. I made the decision to change Plaintiff's job title from Director of Compliance & Reporting to Associate Director of Financial Aid in or about August 2013 because: (1) Plaintiff was no longer performing any Title IV compliance duties; and (2) I wanted to make it clear to Plaintiff that Ms. Padilla Mercedes was her direct supervisor.

30. In an effort to encourage Plaintiff to increase her interactions with students after she returned to work in August 2013, I decided to move Plaintiff's desk into the Office of Financial Aid's main room.

31. On or about October 15, 2013, Director of Information Technology John Shields sent me copies of emails he exchanged with Defendant's telephone service provider which confirmed that there were 39 new messages in Plaintiff's voicemail.

32. A true and correct copy of the email correspondence Mr. Shields sent me on October 15, 2013 regarding Plaintiff's voicemail messages is attached hereto as Exhibit "B."

Matthew Petersen

Sworn to and subscribed before me this 29th day of October, 2015.

Notary Public

JACQUELINE PLANAS
Notary Public, State of New York
No. 01PL6240430
Qualified in New York County
Commission Expires April 28, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2015, a true and correct copy of the foregoing Affidavit Of Matthew Petersen In Support Of Defendant's Motion For Summary Judgment has been served via ECF and FedEx overnight mail on Plaintiff's counsel of record at the address set forth below:

James W. Halter, Esq.
LIDDLE & ROBINSON, L.L.P.
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New York, New York 10022
Attorneys for Plaintiff

Lauren Hanson